SUPERIOR COURT OF CALIFORNIA

County of San Diego

DATE: DEPT. 71 REPORTER A: Peter Stewart CSR# 3184

PRESENT HON. RONALD S. PRAGER REPORTER B: CSR#

JUDGE

CLERK: K. Sandoval

BAILIFF: L. Wilks REPORTER'S ADDRESS: P.O. BOX 120128

SAN DIEGO, CA 92112-4104

JUDICIAL COUNSEL COORDINATION PROCCEEDINGS NO. JCCP 4221

TITLE [Rule 1550(b)]
NATURAL GAS CASES 1,11,111, AND 1V

TENTATIVE RULING:

The Motion of Class Member Southern California Edison Co. and Joining-Party California Electricity Oversight Board to Order Discovery from Settling Defendant Sempra Relating to the Proposed Settlement in these Natural Gas Pipeline Cases is DENIED.

The Court recognizes the moving parties right to seek limited discovery concerning the value of the proposed settlement. (Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 241) The Court also recognizes its authority to exercise its discretion in this area. Of primary concern is the ability of the Court to ultimately determine whether the class settlement is fair, adequate and reasonable. (Wershba, supra at 244) On the grounds that the Court needs the information to make its determination concerning the settlement, the moving parties assert the requested discovery is critically necessary. The Court, however, is unpersuaded.

First, Sempra's subjective value of the settlement is of little or no value to the Court in determining whether the settlement is fair and reasonable. The moving parties have failed to adequately explain why information concerning the value of the settlement can only be obtained from Sempra and why Sempra's valuation is of utmost importance. Granted the non-monetary aspects of the settlement were not subjects raised by the litigation. Nonetheless, the parties have agreed to make plaintiffs' experts available for deposition and to produce their opinions for review by class members. (Sempra's Opposition, p. 5:17-22) Coupled with the sophistication of the moving parties, and presumably their own expert opinions of the non-monetary settlement value, this information should be adequate to allow the Court to make a meaningful assessment of the proposed settlement. In other words, the information to adequately value

the non-monetary aspects of the proposed settlement will be made available to class members and the Court through stipulated agreements already in place, and the expertise and knowledge of the moving parties themselves.

Second, the Court finds significant portions of the requested information may constitute work product or privileged documents unavailable for purposes of discovery.

To the extent that Sempra has made public statements concerning the value of the settlement, that information may be useful to the moving parties. If Sempra intends to submit evidence on the motion to approve the class settlement concerning its value of the settlement, Sempra must make that information available to class members and it would be subject to discovery. Otherwise, there appears to be no authority, and the moving parties cite to no authority to require Sempra to disclose it's opinion concerning the value of the settlement.

The moving parties encourage the Court to require the requested discovery in light of the broad releases expressed in the settlement agreement. However, to compel Sempra to produce potentially burdensome discovery without inherent resulting value is not justified by class members' decision to release their future rights. In fact, such discovery may chill future settlements if settling parties are required to provide discovery detailing their opinions as to the value of any settlements. The Court is satisfied at this time, that opinions and information concerning the value of the settlement will be made sufficiently available to those weighing the decision to release their rights as expressly detailed by the agreement in exchange for the benefits of the proposed settlement.

To conclude, the Court is concerned that the requested discovery (1) is unduly burdensome, and may be protected work product and privileged; (2) may chill future class action settlements; (3) is of little or no value to the Court's assessment of the proposed settlement; (4) is equally available from Plaintiffs, and other class members.

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